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May 30, 2024

*Via ECF*

The Honorable P. Kevin Castel  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *In re Google Digital Advertising Antitrust Litigation*, No. 1:21-md-03010 (PKC)  
*Gannett Co., Inc. v. Google LLC, et al.*, No. 1:23-cv-05177 (PKC)  
*Associated Newspapers Ltd., et al. v. Google LLC, et al.*, No. 21-cv-03446 (PKC)

Dear Judge Castel:

We represent Defendants Google LLC and Alphabet Inc. (collectively, “Google”) and write to correct factual misrepresentations in the letter motion of Plaintiffs Associated Newspapers, Ltd. and Mail Media, Inc. (“Daily Mail”) and Gannett Co., Inc. (“Gannett”) seeking leave to serve contention interrogatories. *See* ECF No. 809. Google asked Daily Mail and Gannett to correct those misrepresentations, *see* Ex. A, but because they did not do so, Google now submits this letter to clarify the record. There is no conference scheduled at this time.

Daily Mail and Gannett’s letter represents that “Google . . . indicated to the Court that it will oppose Daily Mail’s and Gannett’s proposed interrogatories.” ECF No. 809 at 1 (citing Google’s letter motion for leave to file contention interrogatories, ECF No. 807 at 3). This is false. As Google’s letter clearly states, and far from taking the position that Google would oppose all of the interrogatories, Google indicated that it was “*still evaluating them*” because they were only shared for the first time at 12:55 pm ET on May 28 (i.e., less than six hours before Google filed its motion for leave to serve its own contention interrogatories). ECF No. 807 at 3; *see* ECF No. 807-5 (correspondence from Gannett) & ECF No. 807-6 (correspondence from Daily Mail). Given the eleventh-hour timing pursuant to which Daily Mail and Gannett shared versions of their proposed interrogatories, Google has yet to have an opportunity to meet-and-confer with Daily Mail and Gannett concerning its willingness to answer them.

Moreover, contrary to what Daily Mail and Gannett imply, Google never stated it is not willing to meet-and-confer regarding the appropriateness of answering their proposed interrogatories. What Google said is that the interrogatories appear to be tit-for-tat discovery of the kind Your Honor cautioned against. *See* Hr’g Tr. 24:16-18, ECF No. 806. Daily Mail and Gannett’s letter tries to obfuscate this reality by saying that Daily Mail and Gannett sent their proposed interrogatories “in the context of meeting and conferring regarding Google’s request to serve additional interrogatories.” ECF No. 809 at 1. What actually happened is that Daily Mail and Gannett sent Google their respective sets of interrogatories in direct response to Google’s

May 30, 2024

Page 2

request for their consent to answer interrogatories Google shared five days prior, insisting that Google agree to answer each of Daily Mail's and Gannett's proposed interrogatories as a condition for Daily Mail and Gannett answering four of Google's proposed interrogatories each. *See* ECF No. 807-5 at 3 (“Gannett will agree to respond to what Google calls Interrogatories 27-29 and 31, *if Google will respond to Gannett’s proposed interrogatories.*” (emphasis added)); *see* ECF No. 807-6 at 2-3 (Daily Mail) (same).

Daily Mail and Gannett cite to the affirmative defenses Google listed in Google's Answers as supporting a “particularized need” for the interrogatories they now seek leave to serve, *see* ECF No. 809 at 2, but they have had Google's Answers for two months—since March 29—and recently persuaded the Court that it should direct Google to file additional answers on June 11. *See* ECF No. 806 at 23:1-11. There is no reason for Daily Mail and Gannett to have waited until only a day before the Local Rule 33.3 deadline to share their contention interrogatories with Google, unless they were meant as tit-for-tat discovery in response to the interrogatories Google proposed days earlier.

Despite Daily Mail's and Gannett's misrepresentations and gamesmanship in responding to proposed interrogatories Google shared to facilitate a meet-and-confer with a corresponding request for Google to answer additional interrogatories, Google remains willing to meet-and-confer with Daily Mail and Gannett on their proposed interrogatories. Accordingly, there is no dispute for the Court to address at this time.

\* \* \*

For the foregoing reasons, Google respectfully requests that the Court deny Daily Mail and Gannett's motion for leave to serve their contention interrogatories as moot so as to allow the parties to meaningfully meet-and-confer.

Respectfully submitted,

/s/ Craig M. Reiser

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May 30, 2024

Page 3

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**\*\*Except as to *Associated Newspapers Ltd.,  
et al. v. Google LLC*, No. 1:21-cv-03446  
(PKC)**

CC: All Counsel of Record (via ECF)